

December 17, 2013

Ms. Daphne Hodgson, Deputy City Manager-Administrative Services
City of Seaside
440 Harcourt Avenue
Seaside, CA 93955

Dear Ms. Daphne Hodgson:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated November 6, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Seaside Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to Finance on September 23, 2013, for the period of January through June 2014. Finance issued a ROPS determination letter on November 6, 2013. Subsequently, the Agency requested a Meet and Confer session on one or more of the items denied by Finance. The Meet and Confer session was held on November 18, 2013.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of the specific items being disputed.

- Item No. 8 – West Broadway Urban Village project costs totaling \$4,705,548 payable from the Redevelopment Property Tax Trust Fund (RPTTF) is not an enforceable obligation. Finance continues to deny this item. Finance initially denied this item as it was our understanding that contracts for this item have not yet been awarded and HSC section 34163 (b) prohibits a redevelopment agency (RDA) from entering into a contract with any entity after June 27, 2011. The Agency cited a Public Facilities Agreement (Agreement) dated May 15, 1997, wherein the County of Monterey (County) paid the former RDA approximately \$3.161 million as part of a dispute over the distribution of tax increment and the County and the former RDA agreed to pursue development and construction of public facilities in the City of Seaside (City) that would benefit the County, the former RDA, and the citizens of both the County and City. The Agreement contemplated the development of a master plan. Upon completion of the master plan, the County and former RDA were to cooperate to design and construct a library on a site provided in accordance with the master plan, provided there were sufficient funds in the "County Account" to pay the cost of design and construction.

Finance notes that no such "County Account" was ever established or even exists currently. Section 11 of the Agreement provides that "the County Account shall be a separate segregated account of the Agency [former RDA]. The funds deposited into the

County Account shall be used only to pay for design and construction of the library and other facilities and described in Section 6 above or such other purposes the County and Agency [former RDA] shall agree. Any interest earned on funds the Agency deposits to the County Account shall be paid to the Agency." Furthermore, Finance notes that the Agreement does not contemplate that the amount paid by the County due to the dispute over the tax increment was to be deposited in any such account. Rather, under Sections 9 and 10 of the Agreement, the County Account was to be funded with Agency bond proceeds or "Agency Debt" as defined in the Agreement.

Finally, we note, pursuant to Section 7 of the Agreement, various actions were required to be negotiated and agreed to by the parties before the development of any facilities within the master plan could commence. No such agreements have been provided to Finance and the former RDA can no longer perform these actions. Moreover, Section 7 requires expenditures for design and construction of the facilities to come from the "County Account," which as mentioned above does not exist. Therefore, this item is not an enforceable obligation and is not eligible for RPTTF funding.

- Claimed administrative costs exceed the allowance by \$132,998. HSC section 34171 (b) limits the fiscal year 2013-2014 administrative expenses to three percent of property tax allocated to the Agency or \$250,000, whichever is greater. The Monterey County Auditor-Controller's Office distributed \$250,000 for administrative costs for the July through December 2013 (ROPS 13-14A) period, leaving no funds available to fund administrative costs for the ROPS 13-14B period. During the Meet and Confer process, the Agency stated that the \$132,998 in administrative costs were to be funded from the \$250,000 that was received during the ROPS 13-14A period as only \$125,000 of that amount would be expended by the end of the ROPS 13-14A period. Therefore, \$125,000 of requested administrative costs from the RPTTF is being reclassified to Reserve balances (i.e., RPTTF funding received during ROPS 13-14A) and \$7,998 of excess administrative cost is not allowed.

In addition, per Finance's letter dated November 6, 2013, we continue to deny the following items not contested by the Agency during the Meet and Confer:

- Item No. 5 – California Department of Parks and Recreation loan to fund housing projects in the amount of \$1,561,337 is not an obligation of the Agency. It is our understanding this agreement entered into on May 9, 2008 is between the California Department of Parks and Recreation and the City of Seaside, and the former RDA is not a party to the contract. Therefore, this line item is not an enforceable obligation and is not eligible for RPTTF funding.
- Item No. 9 – West Broadway Urban Village project costs totaling \$706,000 payable from bond proceeds is not an enforceable obligation. It is our understanding that contracts for this item has not yet been awarded. HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011. Additionally, pursuant to HSC section 34191.4 (c), your request to use bond funds for this obligation may be allowable once the Agency receives a Finding of Completion from Finance. Therefore, this item is not an enforceable obligation and is not eligible for bond proceeds funding on this ROPS.
- Item Nos. 11 and 12 – Professional and Property services totaling \$40,000 are not enforceable obligations. The Agency was unable to provide sufficient documentation to

support the amounts claimed. Therefore, these items are not enforceable obligations and are not eligible for RPTTF funding on this ROPS.

- Item No. 27 – Auto Center Revitalization Project in the amount of \$20,000 in bond proceeds is not an enforceable obligation at this time. The Agency was unable to provide sufficient documentation to support the amounts claimed. Furthermore, the Agency has not received a Finding of Completion from Finance. HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011. Pursuant to HSC section 34191.4 (c), your request to use bond proceeds for this obligation may be allowable once the Agency receives a Finding of Completion from Finance.

Finance made adjustments to the Prior Period Adjustments form based upon information provided by the Agency during our review to ensure consistency with the funding sources and amounts approved by Finance. HSC Section 34177 (a) (3) states that the Agency can only make payments listed on the ROPS, from the funds listed and authorized by Finance. It is our understanding that the Agency mistakenly reported the amounts for the entire fiscal year 2012-2013 instead of the six month period from January 1, 2013 to June 30, 2013. Therefore, the prior period adjustment was adjusted from \$353,324 to \$116,615 based on the corrections provided by the Agency.

Pursuant to HSC Section 34186 (a), successor agencies were required to report the estimated obligations and actual payments (prior period adjustments) associated with the January through June 2013 period. The amount of RPTTF approved in the table below includes the prior period adjustment that was self-reported by the Agency. HSC Section 34186 (a) also specifies that the prior period adjustments self-reported by successor agencies are subject to audit by the county auditor-controller (CAC) and the State Controller. Any proposed CAC adjustments were not received in time for inclusion in this letter. Therefore, the amount of RPTTF approved in the table below includes only the prior period adjustment that was self-reported by the Agency.

Except for items denied in whole or in part as enforceable obligations, Finance is not objecting to the remaining items listed on your ROPS 13-14B. The Agency's maximum approved RPTTF distribution for the reporting period is \$2,632,404 as summarized on the following page:

Approved RPTTF Distribution Amount For the period of January through June 2014	
Total RPTTF requested for non-administrative obligations	4,461,400
Total RPTTF requested for administrative obligations	132,998
Total RPTTF requested for obligations	\$ 4,594,398
Total RPTTF requested for non-administrative obligations	4,461,400
Denied Items	
Item No. 5	(440,316)
Item No. 8	(1,232,065)
Item No. 11	(20,000)
Item No. 12	(20,000)
	<u>(1,712,381)</u>
Total RPTTF approved for non-administrative obligations	2,749,019
Total RPTTF allowable for administrative obligations (see Admin Cost Cap table below)	-
Total RPTTF approved for obligations	2,749,019
Self-Reported ROPS III prior period adjustment (PPA)	(119,514)
Adjustment to ROPS III PPA	2,899
Total ROPS III PPA	<u>(116,615)</u>
Total RPTTF approved for distribution	\$ 2,632,404
Administrative Cost Cap Calculation	
Total RPTTF for 13-14A (July through December 2013)	2,511,101
Total RPTTF for 13-14B (January through June 2014)	2,749,019
Less approved unfunded obligations from prior periods	-
Total RPTTF for fiscal year 2013-14	5,260,120
Allowable administrative cost for fiscal year 2013-14 (Greater of 3% or \$250,000)	250,000
Administrative allowance for 13-14A (July through December 2013)	250,000
Allowable RPTTF distribution for administrative cost for ROPS 13-14B	-

Pursuant to HSC section 34177 (l) (1) (E), agencies are required to use all available funding sources prior to RPTTF for payment of enforceable obligations. Beginning with the ROPS 13-14B period, Finance required successor agencies to identify fund balances for various types of funds in its possession. During our ROPS 13-14B review, Finance requested financial records to support the fund balances reported by the Agency; however, Finance was unable to reconcile the financial records to the amounts reported. As a result, Finance will continue to work with the Agency after the ROPS 13-14B review period to properly identify the Agency's fund balances. If it is determined the Agency possesses fund balances that are available to pay approved obligations, the Agency should request the use of these fund balances prior to requesting RPTTF in ROPS 14-15A.

Please refer to the ROPS 13-14B schedule that was used to calculate the approved RPTTF amount:

[http://www.dof.ca.gov/redevelopment/ROPS/ROPS 13-14B Forms by Successor Agency/.](http://www.dof.ca.gov/redevelopment/ROPS/ROPS%2013-14B%20Forms%20by%20Successor%20Agency/)

This is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 2014. This determination applies only to items where funding was requested for the six month period. Finance's determination is effective for this time period only and should not be conclusively relied upon for future periods. All items listed on a future ROPS are subject to a subsequent review and may be denied even if it was or was

not denied on this ROPS or a preceding ROPS. The only exception is for those items that have received a Final and Conclusive determination from Finance pursuant to HSC section 34177.5 (i). Finance's review of items that have received a Final and Conclusive determination is limited to confirming the scheduled payments as required by the obligation.

The amount available from the RPTTF is the same as the amount of property tax increment that was available prior to enactment of ABx1 26 and AB 1484. This amount is not and never was an unlimited funding source. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax is limited to the amount of funding available to the successor agency in the RPTTF.

To the extent proceeds from bonds issued after December 31, 2010, exist and are not encumbered by an enforceable obligation pursuant to HSC section 34171 (d), HSC section 34191.4 (c)(2)(B) requires these proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Lisa Brinton, Redevelopment Project Manager, City of Seaside
Ms. Julie Aguero, Auditor Controller Analyst II, Monterey County
California State Controller's Office